

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TROY JOSEPH,)	
)	
Petitioner)	
)	
vs.)	Civil Action No. 03-1513
)	
NEAL K. MECHLING; THE DISTRICT)	Judge David S. Cercone/
ATTORNEY OF THE COUNTY OF)	Magistrate Judge Maureen Kelly
ALLEGHENY; THE ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents)	

ORDER

AND NOW, this 5th day of July, 2012, it appears that Petitioner was ordered to show cause why the stay should not be lifted, ECF No. 74, and Petitioner filed a response, ECF No. 75, wherein he explained that he still had two pending court remedies which required that the stay be continued. The two pending state court remedies are: 1) a writ of habeas corpus pending in the Pennsylvania Supreme Court, Joseph v. Wenerowicz, No. 82 WM 2011 and 2) an appeal in the Pennsylvania Superior Court from some post-conviction order by the trial court with the appeal found at Commonwealth v. Joseph, No. 2006 WDA 2011. We take judicial notice that the habeas corpus petition pending in the Pennsylvania Supreme Court was denied on February 23, 2012.¹ The appeal in the Superior Court is still pending.

¹ The docket is available at

<http://ujsportal.pacourts.us/DocketSheets/SupremeCourtReport.aspx?docketNumber=82 WM 2011>

No later than 14 days after the Superior Court decides Petitioner's appeal, Respondents are ORDERED to inform this Court of the fact that the Superior Court disposed of Petitioner's appeal. No later than 45 days after the Superior Court decides Petitioner's appeal, Petitioner is hereby ORDERED to inform this Court of whether he filed a Petition for Allowance of Appeal with the Pennsylvania Supreme Court. Petitioner's failure to comply with this order may result in the Petition being dismissed for failure to obey court orders. In light of the foregoing, the stay will not yet be lifted.

In addition, it is to be noted that Petitioner stated in his response to the Rule to Show Cause that he was being housed in the Restricted Housing Unit and cannot adequately prepare an amended habeas petition for this court. Petitioner is admonished that he should be working on his habeas petition even now and that with respect to all issues that have already been exhausted, he should have incorporated those issues in a draft amended habeas petition already. It has been nearly nine years since this case has been pending in this Court. Petitioner has been through several PCRA proceedings and appeals. There is a whole body of work achieved in pursuing the PCRA petitions that he can draw from in preparing his amended habeas petition. Petitioner is warned that he will not be heard to complain when the stay in this case is eventually lifted that he needs an extended period of time in which to prepare his habeas petition. He will be ordered to file the amended habeas petition within a time certain and if he fails to do so, he risks having his original petition ruled on as filed with any other issues having been deemed abandoned. Petitioner is ORDERED to work on preparing his amended habeas petition immediately. Petitioner has been warned.

Lastly, it appears that Petitioner has been transferred out of SCI-Graterford. See ECF No. 75-1 (return address on the envelope in which Petitioner sent his response to the Rule to Show Cause indicates he is at SCI Coal Township). If that is the case, then Petitioner is ORDERED to file a change of address with the Clerk's Office. Petitioner is ordered to keep the court informed of his current address. Failure to do so may result in dismissal of the petition for failure to prosecute.

/s/Maureen P. Kelly
MAUREEN P. KELLY
United States Magistrate Judge

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All Counsel of Record via CM-ECF